

APPEAL NO. 021430
FILED JULY 23, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on May 13, 2002. The appellant (carrier) appeals the hearing officer's determination that the respondent (claimant) sustained a compensable injury on _____, and that due to the _____, injury the claimant had disability beginning on _____, and continuing through the date of the CCH. There is no response from the claimant contained in our file.

DECISION

Affirmed.

The carrier appeals the hearing officer's decision to allow three witnesses to testify, contending that their names were not timely exchanged pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 142.13(c) (Rule 142.13(c)). To obtain reversal of a judgment based on the hearing officer's abuse of discretion in the admission or exclusion of evidence, an appellant must first show that the admission or exclusion was, in fact, an abuse of discretion and also that the error was reasonably calculated to cause and probably did cause the rendition of an improper judgment. Texas Workers' Compensation Commission Appeal No. 92241, decided July 24, 1992; see *also Hernandez v. Hernandez*, 611 S.W.2d 732 (Tex. Civ. App.-San Antonio 1981, no writ). In the absence of a finding of good cause to allow the testimony, there was an abuse of discretion in the hearing officer's admission of the testimony of the coworkers. However, after review of the evidence, we conclude that the admission of this evidence was not reasonably calculated to cause, nor did it probably cause, the rendition of an improper decision and order in this case.

Conflicting evidence was offered on the issues. The hearing officer determines the weight and credibility of the evidence. Section 410.165(a). The hearing officer reviewed the record and resolved what facts were established from the conflicting evidence. We conclude that the hearing officer's determinations are sufficiently supported by the record and are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. *Cain v. Bain*, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Roy L. Warren
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge